

REMARKS

Applicant respectfully requests reconsideration. Claims 37 and 39-56 were previously pending in this application. Claims 37, 45, 46, and 54-55 are amended herein. As a result, claims 37 and 39-56 are still pending for examination with claims 37, 45, 46, and 54 being independent claims. Support for the amendment of claim 37 is found at least in paragraph 46 of the published application describing that the immune stimulation of oligonucleotides could be increased by adding more unmethylated CG dinucleotides and in paragraph 50 of the published application describing the benefits of having a TpC dinucleotide at the 5' end of the molecule (as well as the examples of oligonucleotides shown in Table 1). Claims 45, 46 and 54 have been rewritten as independent claims without the addition of further limitations. Claim 55 was amended to change the dependency from claim 37 to claim 54, in view of the amendment to claim 37. No new matter has been added.

Claim Objections

Claims 45 and 54 have been objected to because they depend from a rejected claim. Applicants have rewritten claims 45 and 54 as independent claims including all of the limitations of the independent claim from which they depended. Thus it is believed that the objection should be withdrawn.

Rejection Under 35 U.S.C. 102

Claims 37, 39-44, 46-53, 55 and 56 have been rejected under 35 U.S.C. 102(e) as being anticipated by Hutcherson et al. (5723335) as evidenced by Gura et al. (Science, 1995, 270:575-577).

Although Applicants disagree with the rejection, in order to advance prosecution claim 37 has been amended. Claim 37 was amended to add the limitation that the oligonucleotide includes a 5'TC and more than two unmethylated cytosine-guanine dinucleotides. Hutcherson et al does not anticipate the claimed invention because none of the sequences exemplified in Hutcherson (i.e. SEQ ID Nos. 1-3) include a 5'TC and more than two unmethylated cytosine-guanine dinucleotides. Thus, it is requested that the rejection be withdrawn.

Additionally claim 46 was re-written as an independent claim because Hutcherson et al did not administer any of SEQ ID NOs. 1-3 to humans in conjunction with a vaccine. Hutcherson et al does not provide a teaching that a CpG oligonucleotide is a component of the immunopotentiator being claimed. Thus, Hutcherson et al does not provide a teaching that an oligonucleotide having an unmethylated CpG dinucleotide be administered to a human in conjunction with a vaccine. Hutcherson et al does not inherently anticipate claim 46 because the method was not performed by Hutcherson et al.

Co-Pending applications

Applicants wish to call to the attention of the examiner the existence of co-pending applications having similar claims to the pending claims: US Patent Application 10/789,536, 11/128,127, 11/127,797, and 11/127,803. Applicants have previously cited the existence of each of these applications in an IDS and provided copies of Office Actions from each case. Additionally, US 6194388 and 6207646, also previously cited to the Office in an IDS, include claims of similar scope. If the examiner requires any additional information on this she is encouraged to contact the undersigned attorney.

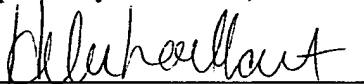
CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

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Respectfully submitted,

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